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## The Buenos Aires Conference: 1936

BY CHARLES G. FENWICK

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# The Buenos Aires Conference: 1936

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*with the aid of the Research Staff of the Foreign Policy Association*

THE Inter-American Conference for the Maintenance of Peace, which met at Buenos Aires, Argentina, from December 1 to 23, 1936, took place between the regularly scheduled International Conferences of American States, the last of which was held at Montevideo in 1933 and the next of which is to meet at Lima, probably in 1938. It was called at the suggestion of President Roosevelt, who on January 30, 1936 addressed identical letters to the Chiefs of State of the several American republics.<sup>1</sup> In these letters he called attention to the fact that the peace protocols recently negotiated between Bolivia and Paraguay offered a favorable opportunity for the American republics to consider "their joint responsibility and their common need" of preventing such conflicts in the future, and in so doing to serve the cause of permanent peace on the Western Hemisphere. The purpose of the Conference would be to determine how the maintenance of peace might best be safeguarded—whether through the prompt ratification of all of the inter-American peace instruments already negotiated, possible amendment of these treaties, or through the creation by common accord of new instruments of peace. The agreements reached at the Conference, the President said, would advance the cause of world peace by supplementing and reinforcing "the efforts of the League of Nations and of all other existing and future peace agencies in seeking to prevent war."

In issuing his call for an Inter-American Con-

ference, the President was doubtless influenced by political considerations. Latin American cordiality toward the United States had been brought to a new peak by the Good Neighbor policy.<sup>2</sup> The opportunity was favorable for tightening the political and economic bonds joining the nations of the Western Hemisphere. Specifically such a move might be of value in discouraging possible aggression by non-American dictatorships against American republics, and laying the groundwork for inter-American cooperation and perhaps a joint neutrality policy in the event of a general European war. In addition, it might stimulate the trade and enlarge the economic influence of the United States, as opposed to its principal rivals for the commerce of Latin America.

President Roosevelt's suggestion was unanimously approved by the Presidents of the twenty other republics, and steps were promptly taken for the formulation of a program for the Conference. On April 8, 1936 a Committee of Twenty-one was formed, consisting of the Secretary of State of the United States and the diplomatic representatives in Washington of the other American republics. Suggestions were received from the several governments concerning topics for the program. The report of the Committee and its project of program were then submitted to the Governing Board of the Pan American Union which, after further correspondence with the several governments, adopted a resolution approving the agenda and recommending to the Conference "that, in harmony with the report of the Committee, preferential consideration be given to the questions relating to the organization of peace," and that the Conference determine which of the other topics of an

1. For the text of the letter to the President of the Argentine Republic, cf. Department of State, *Press Releases*, February 15, 1936, or Inter-American Conference for the Maintenance of Peace, *Special Handbook for the Use of Delegates* (Washington, Pan American Union, 1936), p. 1. The *Diario* of the Conference, issued daily by the Secretary General of the Conference, Dr. Felipe A. Espil, contains a full documentation of the proceedings of the Conference. It was printed for private distribution among the delegates and is at present available in Spanish only.

2. For a succinct review of the achievements of this policy, cf. Charles A. Thomson, "Toward a New Pan-Americanism," *Foreign Policy Reports*, November 1, 1936.

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economic, commercial or cultural character, were sufficiently ripe to make their consideration advisable and which others should be referred to a special conference or to the Eighth International Conference of American states scheduled to meet at Lima in 1938.<sup>3</sup>

All of the twenty-one American republics were represented at the Conference, the number of official delegates being 104.<sup>4</sup> Eleven of the republics sent their respective Secretaries of State or Ministers of Foreign Affairs as heads of their delegations: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Honduras, Nicaragua, United States and Uruguay. The Foreign Minister of Paraguay was also present at the closing session. The United States delegation was composed of Secretary of State Cordell Hull; Assistant Secretary of State Sumner Welles; Alexander W. Weddell, Ambassador to Argentina; Adolf A. Berle, Jr., Chamberlain of the City of New York; Alexander F. Whitney, President of the Brotherhood of Railway Trainmen; Charles G. Fenwick, Professor of Political Science, Bryn Mawr College; Michael Francis Doyle, lawyer, of Philadelphia; and Mrs. Elise F. Musser, Senator of the Utah State Legislature.

At the first ordinary plenary session of the Conference, on December 4, the Minister of Foreign Affairs of Argentina and Chairman of the Argentine delegation, Dr. Carlos Saavedra Lamas, was elected permanent President.<sup>5</sup> A Committee on Initiatives was organized, with the President of the Conference as its chairman. Six other commissions or committees were established, one for each of the topics into which the program of the Conference had been divided: Committee I, Organization of Peace; Committee II, Neutrality; Committee III, Limitation of Armaments; Committee IV, Juridical Problems; Committee V, Economic Problems; and Committee VI, Intellectual Cooperation.

To a large extent the background for the work of the Conference had been prepared at the Seventh International Conference of American States, held at Montevideo in 1933.<sup>6</sup> It was there that the tide of feeling among the American republics toward the United States began to turn. For more than a generation the policy of the United States

had been an object of suspicion and distrust on the part of Latin American states. The slow but steady extension of the Monroe Doctrine from a policy of protecting the continent against European aggression into the exercise of an "international police power," as President Theodore Roosevelt described it in his annual message of 1904, might, perhaps, have been less resented and feared had the United States been willing to share with the other American republics the interpretation and application of the Doctrine. But that was reserved to the United States alone.<sup>7</sup> At the same time this country's attitude of political exclusiveness and superiority had been accompanied by a policy of economic imperialism. To many Latin American statesmen it seemed that, while the United States proclaimed in lofty phrases its belief in democracy and the equality of all nations before the law, it lightly set those principles aside when there was question of protecting United States citizens in their economic exploitation of undeveloped states.

While this attitude of suspicion and distrust on the part of the Latin American republics toward the United States was not wholly removed at Montevideo, it was unquestionably weakened to a considerable degree, partly because of the liberal policies announced by President Roosevelt in his inaugural address of March 1933, and partly because of the personal character of the American Secretary of State, whose sincerity and democratic manner at the conference convinced other delegates that the foreign policy of the United States would be made to conform to the ideal of the "good neighbor" proclaimed by the President. Adoption by the Montevideo Conference of the important Convention on Rights and Duties of States served to confirm this opinion.<sup>8</sup> After the Conference there followed in succession a number of practical demonstrations of the policy of the "good neighbor," notably abrogation of the Platt Amendment in 1934, withdrawal of the marines from Haiti in the same year, and negotiation of a new treaty with Panama in 1936. As a result the

3. Cf. *Special Handbook*, cited, p. 4. A resolution adopting the program prepared by the Pan American Union was approved at the first ordinary session of the Conference on December 4, 1936. It should be noted that the program, although originally intended to be more restricted than that of a regular Conference, was ultimately extended to cover quite as wide a field.

4. For the full list, cf. *Diario*, No. 3, p. 26.

5. Cf. *Diario*, No. 5, p. 42.

6. For a survey of the work of the Montevideo Conference, cf. *Report of the Delegates of the United States of America to the Seventh International Conference of American States* (Washington, Government Printing Office, 1934); and also Charles A. Thomson, "The Seventh Pan-American Conference: Montevideo," *Foreign Policy Reports*, June 6, 1934.

7. Cf. statement of Secretary of State Charles Evans Hughes, in an address of August 30, 1923, that "as the policy embodied in the Monroe Doctrine is distinctively the policy of the United States, the Government of the United States reserves to itself its definition, interpretation, and application." *American Journal of International Law*, Volume 17 (1923), pp. 611, 616.

8. Cf. *Report of the Delegates . . . to the Seventh International Conference . . .*, cited, p. 165.

Buenos Aires Conference met in a spirit of widespread friendliness toward the United States. This was marked not so much by the warm demonstration attending the appearance of President Roosevelt at the opening of the Conference as by the almost complete absence of any tendency to indulge in the popular sport of "baiting" Uncle Sam, of challenging the pacific intentions of the Colossus of the North, of contrasting alleged principles with actual practice. The general economic recovery in practically every country was doubtless chiefly responsible for the atmosphere of optimism in which the Conference met, in marked contrast with the pessimism attending the opening of the Montevideo Conference. To a considerable extent, however, the altered attitude of Latin American countries toward the United States must have contributed to the confidence of success with which the delegates approached their task.

The sum total of the work of the Conference consisted in the adoption of eight conventions, two treaties, one protocol, and a Final Act embracing 62 resolutions, recommendations and votes. The United States delegation refrained from signing two of the conventions<sup>9</sup> and withheld its approval from several of the resolutions. On May 26, 1937 President Roosevelt submitted to the Senate for its advice and consent, preliminary to ratification, the following documents:

1. Convention for the Maintenance, Preservation and Re-establishment of Peace (popularly known as the Consultative Pact).
2. Additional Protocol Relative to Non-Intervention.
3. Treaty on the Prevention of Controversies.
4. Inter-American Treaty on Good Offices and Mediation.
5. Convention to Coordinate, Extend and Assure the Fulfillment of Existing Treaties Between the American States (or, more briefly, the Convention on Treaty Coordination and Neutrality).
6. Convention on the Pan-American Highway.
7. Convention for the Promotion of Inter-American Cultural Relations.
8. Convention Concerning Artistic Exhibitions.<sup>10-11</sup>

9. Those on Peaceful Orientation of Public Instruction, and on Facilities for Educational and Publicity Films.

10-11. The official texts of the instruments approved or signed at the Conference are given in two pamphlets published by the Argentine government: one containing the conventions, treaties and the Non-Intervention Protocol; another, entitled *Final Act of the Inter-American Conference for the Maintenance of Peace*, containing the resolutions. The texts of these documents are also to be found in *Inter-American Conference for the Maintenance of Peace, Report on the Proceedings of the Conference, submitted to the Governing Board of the Pan American Union by the Director General* (Washington, Pan American Union, February 1937). The *Supplement to the American Journal of International Law*, April 1937, prints the texts of the conventions, treaties and protocol. The Department of State

#### THE CONSULTATIVE PACT

The Committee on the Organization of Peace, to whose work preferential consideration was to be given in accordance with the resolution of the Governing Board of the Pan American Union, elected as its chairman Dr. Francisco Castillo Nájera, head of the Mexican delegation. From this committee was reported the most significant agreement reached at the Conference, the Convention for the Maintenance, Preservation and Re-establishment of Peace, or Consultative Pact, presented as a joint project by all of the delegations. The terms of this convention are an adaptation of a Brazilian project which, using the language of the original message of President Monroe in 1823, referred to the possible interposition of a non-American power in any American country with which it had no existing political relationship, stamped such interposition as an unfriendly act and pledged the contracting parties immediately to consult with one another. It thus sought to make the Monroe Doctrine the common doctrine of all the American republics. This direct challenge to Europe, however, encountered opposition—with the result that Article I of the revised joint project finally accepted by the Conference refers in general terms to the situation arising "in the event that the peace of the American Republics is menaced," and it calls in such event for mutual consultation by the American republics "for the purpose of finding and adopting methods of peaceful cooperation." The absence of any discriminatory reference concerning a threat to peace coming from a non-American power made it easier for the Argentine delegation to accept the agreement.

Article II goes beyond the scope of the Monroe Doctrine. It deals with two distinct situations, the one arising in the event of a war between American states, the other in the event of "an international war outside America." In both cases provision is made for consultation between the governments of the American republics; but in the former case the consultation is described as having as its object "a method of peaceful collaboration" within the terms of the Pact of Paris of 1928 and the Argentine Anti-War Pact of 1933. In the case of a war "outside America," which might menace the peace of the American republics, the language of the convention is non-committal; consultation is to take place, but its object is to determine when and how the American states

is preparing a full report on the Conference which will contain in an Appendix the texts of all the agreements reached at the Conference.



may, if they so desire, "eventually cooperate in some action tending to preserve the peace of the American continent."

There can be little doubt that, in spite of the very guarded language of the convention, the agreement to consult which it embodies constitutes an important contribution to the peace machinery of the Western Hemisphere. The phrase "in the event that the peace of the American Republics is menaced" is broad and may be made to mean whatever the parties want it to mean when a specific crisis arises. While the agreement to consult "for the purpose of finding and adopting methods of peaceful cooperation" is not the equivalent of a mutual guarantee of collective security, it enables the parties to take such action as they may feel desirable under the circumstances, and its very elasticity, under present conditions, is in its favor. In the light of the failure of the leading American states to agree upon ways and means of bringing to an end the conflict between Bolivia and Paraguay, this new procedure for collective action gives promise of anticipating the outbreak of hostilities as well as putting a stop to them after their inception.

More important, however, may be expected to be the psychological effect of this convention in "continentalizing" the Monroe Doctrine. Efforts had been made by a number of Latin American states at the Santiago Conference in 1923 and at the Havana Conference in 1928 to bring the Monroe Doctrine out into the open and secure its redefinition, but such attempts had been suppressed by the United States. The better spirit prevailing at Montevideo kept the subject from being raised. At Buenos Aires, however, the United States not only failed to oppose the Brazilian proposal, but gave it active support; and but for the objection of a Latin American state the very words of the Doctrine would have been embodied in the convention. A new era seemed to have dawned when the joint project of all of the delegations was presented to Committee I. With it was presented the Additional Protocol Relative to Non-Intervention, likewise the joint project of all of the delegations. Both treaties were voted by acclamation.

The association of the Non-Intervention Protocol with the Consultative Pact was more than accidental. If any of the delegates had feared the adoption of the latter, with its machinery of consultation and its possibilities of domination on the part of the leading states of the continent, the Protocol served to make such apprehensions groundless. Article 8 of the Montevideo Convention on Rights and Duties of States had laid down the principle that

"no state has the right to intervene in the internal or external affairs of another."<sup>12-13</sup> The Protocol reaffirms this principle, declaring "inadmissible" the intervention of any one of the contracting parties "directly or indirectly, and for whatever reason, in the internal or external affairs of any of the other parties," and then, in a second paragraph, provides that "the violation of the provisions of this Article shall give rise to mutual consultation, with the object of exchanging views and seeking methods of peaceful adjustment." The procedure of consultation thus set up implies a degree of collective responsibility on the part of the signatory states to find a peaceful solution for the situation brought about by an act of intervention.

#### DECLARATION OF INTER-AMERICAN SOLIDARITY

The President of the Conference, in his address on the Consultative Pact, had elaborated on the evolutionary character of international conferences, quoting Elihu Root to the effect that it was necessary at conferences "to sow the seed of ideas and tendencies which, taking root at one conference, will germinate and bear fruit at another." No better illustration of this assertion could be given than the Declaration of Principles of Inter-American Solidarity and Cooperation, presented originally by the combined Central American delegations as a draft convention and subsequently reduced in technical rank to a declaration. There is little that is new in the Declaration, which gathers together a variety of principles already accepted and presents them as a unified whole. A preamble recites the existence of common ideals of peace and justice held by the American republics and the necessity of making a declaration of "principles of American International Law" and the principle of "American solidarity in all non-continental conflicts." The Declaration then reasserts the "absolute juridical liberty"<sup>14</sup> of the American nations and "their unrestricted respect for their respective sovereignties" and the "existence of a common democracy throughout America"; it proclaims the principle of collective concern for the peace of America set forth in the Consultative Pact, and the resulting justification of the procedure of consultation; and it enumerates as "principles" accepted by the Ameri-

12-13. For a review of the debate on the intervention question at the Montevideo Conference, cf. Thomson, "The Seventh Pan-American Conference: Montevideo," cited, pp. 94, 95.

14. The original draft presented by the Central American States read: "absolute juridical equality." The change was possibly made inadvertently in the subcommittee which revised the Declaration after it was approved in principle by the Committee. The revised form was not discussed when it came up for final vote. For the text of the Declaration, cf. *Final Act*, cited, p. 16.

can community of nations: the proscription of territorial conquest and the non-recognition of territory acquired by violence, the condemnation of intervention, the illegality of the forcible collection of public debts, and the obligation to settle all disputes, of whatever nature or origin, by the alternative methods of conciliation, unrestricted arbitration, or judicial procedure.

Limited as is the application of the Declaration to the American republics, and broad as are its generalizations, it is nevertheless a document of great international importance. To the delegations of the Central American states which proposed the original convention, the principles set forth in the Declaration appeared to constitute a sort of Magna Charta of American freedom and collective security. It was brought up at a routine committee meeting and few of the delegates anticipated more than a perfunctory discussion. Señor Castro Ramírez of El Salvador, in explaining the motives which led to the drafting of the Convention, said that it was necessary to set forth certain fundamental principles which might serve as a cornerstone for the development of future law—principles which, thus coordinated, might form a sort of Code of Peace.<sup>15</sup> Señor Ramírez of Paraguay was strongly in favor of the statement of principles, but believed that it should be in the form of a “declaration” rather than a treaty, which seemed to call for something more concrete. This suggestion was accepted, and the discussion then turned upon the second article of the draft which read: “All of the American nations will consider as an attack upon themselves individually an attack which may be made by any nation upon the rights of another, and such a situation shall give rise to an agreement or consultation between the foreign offices with the object of determining what position is to be taken or, it may be, the rules of a concerted neutrality.” Señor Antokoletz of Argentina pointed out that the language of this article was in conflict with the terms of treaties already contracted, and suggested redrafting the language of the Consultative Pact. Señor Aranha then urged with great eloquence that Brazil was in favor of the stronger phrasing of the obligation to regard an “attack” on any state as an attack on all; such had been the traditional policy of Brazil and would continue to be its individual policy apart from the agreement of others to adopt the same policy. The drafting committee, seeking harmony, struck out the phrase relating to an “attack,” to which the Argentine delegates had objected, and inserted language conforming to the Consultative

Pact already adopted. The clause relating to “concerted neutrality” was also omitted; and in its revised form the Declaration was finally adopted unanimously.

On one subject, regarded by a number of the delegations as a matter of importance, the United States delegation found itself unable to cooperate. The resolution on Coordination of Pacific Instruments with the Covenant of the League of Nations recommends that the American states which are members of the League and signatories of the Pact of Paris, “the Saavedra Lamas Treaty”<sup>16</sup> and “any such agreements signed in the future” should request states which are not members of the League but are parties to the other treaties that they cooperate with the League in the study of projects for the coordination of these instruments with the League Covenant. This recommendation to the League states might be harmless enough, since there would be no obligation on the part of non-League states to accede to the request of League states. But the resolution goes on to recommend that non-League states cooperate with Geneva in the measures it may adopt to prevent war or to settle international conflicts by pacific means, the recommendation being qualified by the clause “whenever the respective legal systems of said States permit.” Broad as the qualifying clause was, it was not broad enough to permit the United States delegation to give its approval and thus appear to be accepting an obligation to cooperate with the League.<sup>17</sup>

#### TREATY COORDINATION AND NEUTRALITY

The second of the six topics into which the program of the Conference had been divided was the “consideration of rules regarding the rights and duties of neutrals and belligerents.” The Committee entrusted with this topic sat under the chairmanship of Señor Ulloa of Peru, and while it had before it a number of projects, notably one from the Peruvian delegation dealing solely with neutrality, it actually reported to the Conference the single Convention to Coordinate, Extend and Assure the Fulfillment of the Existing Treaties between the American States or, more briefly, the Convention on Treaty Coordination and Neutrality. This convention, although presented as the joint project of all of the dele-

16. The Argentine Anti-War Pact of 1933.

17. It must be added, however, that the individual members of the United States delegation appear to have made every effort to avoid giving the impression of hostility to the League or of failure to understand the attitude of the delegations which sought to promote closer cooperation with the League.

15. Cf. *Diario*, No. 22, p. 493.

gations, was based on a draft convention prepared by the United States delegation, which combined two sets of provisions, a first group looking to the creation of more effective machinery for the fulfillment of existing treaties and a second group contemplating the adoption of common measures of neutrality in the event of the failure of the machinery of peace. This combination peace-and-neutrality treaty was first informally discussed by the Argentine, Brazilian and other delegations, and later submitted to a special committee for critical examination and revision. During the process of revision, the articles of the original draft were modified to meet objections raised by the Argentine and other delegations. The draft convention, thus revised, was submitted to the heads of all of the delegations for their approval and, after being initialed by them, was presented to the Committee on Neutrality as the joint project of all the delegations.

The articles of the Convention on Treaty Coordination and Neutrality, which deal with the machinery of peace, begin by reciting the five important treaties already entered into: the Gondra Treaty of 1923, providing for the reference of controversies to commissions of inquiry; the Kellogg-Briand Pact of 1928; the Inter-American Conciliation Convention of 1929; the Inter-American Arbitration Treaty of the same year; and the Argentine Anti-War Pact of 1933.<sup>18</sup> Then follows a provision making reference to the terms of the Convention for the Maintenance, Preservation and Re-establishment of Peace, already adopted, and agreeing that application of the machinery of consultation shall be to assist, "through the tender of friendly good offices and of mediation," the American republics in the fulfillment of their existing obligations of pacific settlement. The succeeding article requires that during the process of consultation the parties in dispute must not have recourse to hostilities or take any military action for a period of six months. This is followed by an important article, somewhat out of chronological order, by which parties in dispute agree that, in the event of the failure of direct diplomatic negotiations, they will report to the other signatory states which of the several peaceful procedures they have resorted to and the progress of negotiations. In this way the convention seeks to give vitality and effectiveness to the peace treaties enumerated in the opening article and to meet the objection frequently heard

that what was needed was not a new treaty but the better observance of those already adopted.

In the original draft prepared by the United States delegation provision had been made for the creation of a "Permanent Inter-American Consultative Committee," to be composed of the Foreign Ministers of the several American republics, which was not only to assist states in the observance of their treaty obligations, but to collaborate on various ways and means of preventing conflicts. It was to meet regularly to exchange information and views looking to the correlation of legislative and administrative action to be taken in pursuance of the neutrality articles of the treaty. The proposal to create this Consultative Committee, however, met with determined opposition from the Argentine delegation, partly on the ground that it suggested a "political organization" of the continent, contrary to the policy consistently followed with regard to the Pan American Union, and partly on the ground that it appeared to be an attempt to set up a sort of League of American Nations in opposition to the League at Geneva. The result was that, for the sake of harmony, the proposal was abandoned by the United States delegation, and in its place was substituted the bare obligation to consult, without reference to any particular machinery of consultation.

The articles dealing with the machinery of peace are followed by articles looking to the adoption of a common policy of neutrality in the event that the peace machinery should fail. In the draft convention prepared by the United States delegation, provision had been made, first, for determining by common accord whether the outbreak of hostilities between two or more American states amounted to a state of war and, second, for the application by neutrals of a series of restrictions on trade with the belligerents. These restrictions followed in general the lines of the existing United States neutrality legislation, providing for specific prohibitions on the export of arms and ammunition and the making of loans to any state engaged in war, and leaving the individual neutral powers free to impose such further restrictions on trade with the belligerents as might be called for by their domestic policies. The latter provision contained the significant clause that the measures taken should "apply equally to all the belligerents," as was to be the case with the prohibition of the shipment of arms and the making of loans; although in both cases the provision for equality of treatment was modified by the condition that the obligation would not apply if in conflict with the obligations of multilateral treaties to which the

18. For a brief review of the principal provisions of these pacts, cf. Thomson, "Toward a New Pan-Americanism," cited. For a critical analysis of American peace machinery, cf. Manley O. Hudson, "The Inter-American Treaties of Pacific Settlement," *Foreign Affairs* (New York), October 1936.



states might be parties when the new convention entered into effect. This last qualification would seem to nullify the effect of the proposed agreement for all states members of the League of Nations—that is, for sixteen of the twenty-one states. It should be noted, however, that the draft proposed by the United States took into account the fact that, as shown by past experience, some time might elapse between the outbreak of hostilities, and the determination of the aggressor by the League. During this interval, it was thought, none of the states not parties to the conflict should add fuel to the flames by shipping munitions of war to either belligerent.<sup>19</sup>

The neutrality proposals of the United States delegation met with no support, even from delegations eager to cooperate on other points. It was felt that the principle of equal treatment of both belligerents, irrespective of the possibility that one might be acting in violation of its treaties of peaceful settlement and the other ready to carry them out, was fundamentally wrong, and should not be given even qualified recognition in a formal convention. The difficulty of distinguishing between aggressor and victim was not regarded as weakening the principle at issue—that it was illogical to begin a treaty with a series of articles creating machinery to insure resort to pacific procedures of settlement and then, if such procedures failed, to disregard entirely the cause of their failure and leave the victim of the attack helpless. As a result the convention, in the form finally presented to the Committee as the joint project of all the delegations, reduced the specific obligations of the United States draft to a single article so drawn as to do no more than recognize, in the event of hostilities between two or more of them, the desirability on the part of the contracting states, through consultation, of adopting “in their character as neutrals a common and solidary attitude, in order to discourage or prevent the spread or prolongation of hostilities.” The revision reserved to League members complete freedom to abide by their obligations under the Covenant.

The topic of the Limitation of Armaments, assigned third place on the program, was described as the “necessity of limiting the organization and armaments of national defense, so as only to guarantee internal security of the States and their defense against foreign aggression.” So ambitious and at the same time so paradoxical a program

19. The Argentine delegation was at first willing to accept the provision in question if, at the end of the so-called “preventive period,” decrees would be issued against one or other or both of the belligerents, taking into account the aggressive character of their action, as determined under the circumstances.

could scarcely have been expected to produce much more than the pious resolutions reported from the committee in charge. With any suggestion of a system of collective security ruled out of consideration, with each state left to determine its own necessities of internal and external defense, the best that could be done was to adopt a resolution postponing the whole matter by recommending to governments “which consider themselves in a position to do so” to enter into general or bilateral agreements of the kind which the program called for but which they did not then see their way to conclude.

In the topic on Juridical Problems three questions of a highly technical character were specified: consideration of methods for the codification of international law; formulation of principles with respect to the elimination of force in cases of pecuniary claims; and “the unification of the international American principle” and national legislation with respect to nationality. Clearly, in the short time at the disposal of the Committee, which sat under the chairmanship of Señor Arias M. of Panama, little more could be done than to show deference to the desire of certain of the delegations to discuss the topics and then prepare resolutions passing them on to the Committee of Experts for study and report to the Conference at Lima.<sup>20-21</sup>

#### ECONOMIC AND CULTURAL CONVENTIONS

It was but natural that the United States delegation, having at its head the Secretary of State, should place in the forefront of its program proposals looking to the lowering of barriers to international trade. The leadership of the United States in this field was given recognition by the election of Assistant Secretary of State Sumner Welles as chairman of the Committee on Economic Problems. But what could the Committee do? The Montevideo Conference had already adopted a resolution which was at once a declaration of fundamental principles and a program of

20-21. A resolution was approved, re-establishing the three Permanent Committees on codification of international law created by the Havana Conference in 1928. These were respectively: a committee at Rio de Janeiro to work on public international law; another at Montevideo on private international law; and a third at Havana to study comparative legislation and the uniformity of legislation. These committees had been left out of the picture in the provisions for codification approved at the Montevideo Conference in 1933. Their re-establishment was viewed by some authorities as needlessly complicating the process of codification. For the background of this question, cf. Foreign Policy Association, *Information Service*, “The Sixth Pan-American Conference, Part II,” July 6, 1928, pp. 189, 207; and Thomson, “The Seventh Pan-American Conference: Montevideo,” cited, p. 93. The text of the 1936 Buenos Aires resolution is given in *Final Act*, cited, p. 8.



"economic disarmament." What was there left but to define the two most important principles more sharply and to give them more specific application? This was done, and the two resolutions presented by the Committee deal in turn with the principle of abolishing or reducing trade restrictions in general and with the principle of equality of treatment in respect to whatever restrictions might be maintained. The necessary qualification accompanying both resolutions—that the policies were to be put into effect to the extent to which the "different national economies" permitted—left practical application of the principles to future bilateral negotiations. More concrete action in the direction of tariff reduction was impossible in view of practical difficulties attending a multilateral treaty.

The project of a Pan American Highway, considered as a means of promoting closer economic and social contact between the American republics, had been the subject of resolutions and special congresses since the time of the Santiago Conference in 1923. An additional impulse needed to be given to completion of the highway, parts of which were already under construction or actually built. The Convention on the Pan American Highway was therefore adopted, pledging collaboration in its completion and calling for the creation of a commission of technical experts whose duty it will be to coordinate and extend the work of the different governments, and for the appointment of a committee to study the financial problems involved.

The last topic on the program of the Conference dealt with "measures to promote closer intellectual and cultural relations between the American Republics, and the development of the spirit of moral disarmament." Here was a broad field for fruitful action, and the Committee, under the chairmanship of Señor Cestero of the Dominican Republic, reported to the Conference a total of five conventions and twenty-seven resolutions. If the prolific output of the Committee calls for some degree of criticism with respect to loose drafting and lack of logical coordination between documents dealing with related subjects, the agreements taken as a whole may well prove as significant as the political and economic instruments reported by the other committees, and possibly even more so. The point was well made by a number of delegates that, while governments may take the initiative in measures of political and economic cooperation, the vital factor in the fulfillment of obligations will be lacking unless public opinion progresses side by side with the development of new rules of law and the creation of new ma-

chinery of peace. "Moral disarmament," the removal of fear and suspicion, the creation of a sense of confidence in the place of existing distrust, were, therefore, the objectives of the Committee; and the measures taken were of the widest variety.

The most significant of the educational measures proposed by the Committee was the Convention for the Promotion of Inter-American Cultural Relations, which provides for the annual award by each government of a fellowship to two graduate students or teachers of every other American state, to be selected from a panel of five names submitted by each government to every other. The fellowships are to provide tuition and maintenance at an institution of higher learning in the respective countries. Travel and other expenses are to be met by the recipient or his government. Further, each contracting party is to communicate to the others, in alternate years, a list of the full professors available for exchange service from the outstanding universities and technical schools of each country, and from this list the other parties are to select a visiting professor whose duty it shall be to give lectures, conduct courses of instruction, or pursue special research, preference however being given to teaching.

In addition to providing for the exchange of students and teachers, the Committee reported to the Conference a Convention Concerning Peaceful Orientation of Public Instruction, which recognizes the rôle of public education in the program of moral disarmament and embodies an agreement on the part of the contracting states "to organize, in their public educational establishments, the teaching of the principles of pacific settlement of international disputes and the renunciation of war as an instrument of national policy, as well as the practical applications of these policies."<sup>22</sup>

#### APPRAISAL OF THE CONFERENCE

"Was the Conference a success?" This question has been asked in many quarters, and the answer will depend in part on what was expected of the Conference. Judged in the light of the agreements reached, whether in the form of conventions involving legal obligations or of resolutions expressing idealistic objectives, there should be no question of its success. In the first place it renewed the statement of certain fundamental principles of international law and clarified their application. These principles constitute the most important part of

22. Cf. the terms of the Montevideo Convention on the Teaching of History, *Report*, p. 145. The United States delegation withheld its signature from this convention, on the ground that education "lies largely outside the sphere of activities of the Federal Government."

the substantive body of international law, and their reiteration from time to time is essential to their vitality and force. The principle of the "equality of states" received new confirmation as part of "American international law," whatever violations of the principle may have been witnessed on other continents in recent years. Indeed it was doubtless the uncertain future of small states in other parts of the world that gave an emotional content to the renewed declaration of equality with regard to American states. The same may be said of the principle of non-intervention, given new standing by the agreement of the American republics not only to consider an attack on the principle by a non-American state as a matter of collective concern but to apply the same procedure of consultation in the event of aggressive action by one American state against another. The repudiation of war and of territorial conquest is along familiar lines, but its repetition under present conditions can scarcely be criticized. Similarly, although the economic resolutions do no more than give specific application to the charter of economic freedom adopted at Montevideo, yet they assert once again that the old economic imperialism is slowly yielding to a rule of law and that the theory of mutual benefit is supplanting the doctrine of unilateral exploitation.

A significant feature of the Conference, although it was not reflected in any of the conventions or resolutions adopted, was the emphasis laid on democracy as the condition of peaceful relations between states. The association of dictatorships and militarism in other parts of the world was strongly emphasized in Secretary Hull's closing address. But dictatorships were obviously not confined to Europe. In a number of the American republics democracy was yielding ground to the rule of military cliques. It was this which led President Roosevelt, in his opening address at the Conference, to emphasize strongly the need of preserving the principles of constitutional government. The President's assertion that "democracy is still the hope of the world" was not only received with acclaim by individual members of the delegations which he addressed, but promises to become for many years the slogan of the liberal elements of the different countries in their opposition to communism and fascism. In that respect the contribution of the Conference to the peace of the American continent may well be equalled by its contribution to the restoration of democratic government in the Latin American states in which it is for the time being in abeyance.

In the second place, three of the conventions

adopted by the Conference contain among their provisions a valuable addition to the machinery of peace. The procedure of consultation is provided for not only in the event of direct threats to peace or the outbreak of war, but is to be employed as the normal method of assisting states in the settlement of controversies before they have reached the acute stage at which there is danger of hostilities. While the Conference did not accept the proposal of the United States delegation for the creation of a Permanent Inter-American Consultative Committee, there is every reason to expect that actual resort to the procedure of consultation will lead to some plan of organization by which that procedure may develop into an elastic but prompt and efficient agency for bringing the force of public opinion throughout the Americas to bear upon the parties and thus preventing the recurrence of the "tragedy of the Chaco," which led to the calling of the Conference.

Although the terms of the Consultative Pact, or "Monroe Doctrine" Convention as it has been somewhat inaccurately called, do not go so far as to establish a system of "collective security" for the American continent, they do recognize the "joint responsibility" of the American republics—mentioned in President Roosevelt's letter of invitation—to render less likely in the future the outbreak or continuation of hostilities between them. That would of itself mark a success for the Conference, even if it had not been supplemented by the machinery of consultation. The provision of this machinery diminishes the likelihood of an attack on an American state by a non-American power because it enables the American states to form a united front against aggression.

What of the failure of the Conference to accept the neutrality proposals of the United States delegation in their specific details? Doubtless there will be few to regret the substitution of the more elastic terms of Article 6 of the Coordination Convention<sup>23</sup> for the original proposal to write into permanent treaty form the provisions of the United States neutrality legislation of 1935-1936. The very uncertainty and division of opinion which exists in the United States at the present day concerning neutrality policy confirms the advantages of the less rigid agreement reached by the Conference. In the event of a general European war, the United States will be free to pursue its present neutrality policy or, if it wishes, to tighten its restrictions on trade with belligerents. All that the convention calls on it to do is to consult with other American states to determine whether they find it desirable

23. Cf. p. 100.

to "cooperate in some action tending to preserve the peace of the American continent"—an obligation so vague as to mean no more than the parties wish it to mean when the crisis arises.

How do the Buenos Aires treaties fix the juridical status of the American states in the event of other types of conflict? Should a war break out between two or more American nations, the other states in the hemisphere would enter into consultation to seek "a method of peaceful collaboration"; such consultation, through the tender of good offices and mediation, would attempt to secure the observance of existing peace treaties; but non-belligerent states would retain their status as neutrals, and in such capacity might apply embargoes on arms and loans against the parties to the struggle. In the case of an intervention by one American state in the affairs of another, the republics of the hemisphere would be called into consultation, either at the initiative of the aggrieved state or of any other, to seek "methods of peaceful adjustment." Should an outside nation attack an American state, thus menacing "the peace of the American Republics," again consultation would be called for, with the purpose of "finding and adopting methods of peaceful cooperation." In such a case, however, the Buenos Aires conventions leave individual states, e.g., the United States under the Monroe Doctrine, full freedom of action once consultation has taken place.

While the agreements adopted at the Buenos Aires Conference do not in their terms apply beyond the circle of the American republics, there is no doubt that the delegates who took a leading part in the Conference had their eyes on the world at large. It was to be expected that there would be a conflict of opinion between those who were intent on establishing a regional system of peace and those who held to the principle of "universality." But this difference was one bearing on the practical expediency of methods rather than on ultimate objectives. Certainly the United States, while believing that there were advantages to be gained from the regional approach to the organization of peace, had at the same time the very definite hope that the example set by the American republics in laying a more solid basis for continued friendly relations might be taken to heart by Euro-

pean governments and might encourage them to seek peaceful adjustment of their own more acute problems. The Buenos Aires treaties contain no provision contrary to the duties and obligations of the Latin American states which are members of the League of Nations. On the contrary, in the Convention on Treaty Coordination and Neutrality those duties are specifically recognized. Should Latin American nations choose to disregard their League obligations in a specific contingency, however, they would still be bound by the provisions of the Buenos Aires conventions.

Finally, in estimating the value of the Conference, it must be remembered that there are the less tangible but none the less real assets resulting from the demonstrations of mutual confidence and good will attending the elaboration of conventions and resolutions. In this respect the unanimity with which the two most important draft conventions were accepted by the delegations and made their joint projects was unparalleled in the history of Inter-American Conferences. An international conference is not merely a series of occasional plenary sessions at which the assembled delegates indulge in more or less perfunctory addresses; it is also a daily routine of round-table meetings in which the delegates seek to reconcile conflicting points of view and come to have a better understanding of the policies of their respective governments. Apart from the specific reasons for which a particular conference is called, there will always be need for the representatives of nations to gather together from time to time and examine anew the basis of common interest on which their friendly relations must ultimately rest; for it is that basis of common interest, moral, social, economic and political, which must furnish the motive needed to lead them to reconcile conflicting national claims. If the Conference at Buenos Aires had done no more than enable the delegates to find that the things which divided them were of lesser consequence than the things which united them, and that it was the part of wisdom to concentrate on the elements of unity and seek to give them concrete application in the relations of daily international life, it would have more than justified itself.<sup>24</sup>

24. On June 29 the Senate approved the two treaties, five conventions and the protocol concluded at the Buenos Aires Conference.



## APPENDIX

*Excerpts from*CONVENTION FOR THE MAINTENANCE, PRESERVATION  
- AND RE-ESTABLISHMENT OF PEACE

ARTICLE 1. In the event that the peace of the American Republics is menaced, and in order to coordinate efforts to prevent war, any of the Governments of the American Republics signatory to the Treaty of Paris of 1928 or to the Treaty of Non-Aggression and Conciliation of 1933, or to both, whether or not a member of other peace organizations, shall consult with the other Governments of the American Republics, which, in such event, shall consult together for the purpose of finding and adopting methods of peaceful cooperation.

ARTICLE 2. In the event of war, or a virtual state of war between American States, the Governments of the American Republics represented at this Conference shall undertake without delay the necessary mutual consultations, in order to exchange views and to seek, within the obligations resulting from the pacts above mentioned and from the standards of international morality, a method of peaceful collaboration; and, in the event of an international war outside America which might menace the peace of the American Republics, such consultation shall also take place to determine the proper time and manner in which the signatory states, if they so desire, may eventually cooperate in some action tending to preserve the peace of the American Continent.

ARTICLE 3. It is agreed that any question regarding the interpretation of the present Convention, which it has not been possible to settle through diplomatic channels, shall be submitted to the procedure of conciliation provided by existing agreements, or to arbitration or to judicial settlement.

*Excerpts from*ADDITIONAL PROTOCOL RELATIVE TO  
NON-INTERVENTION

ARTICLE 1.—The High Contracting Parties declare inadmissible the intervention of any one of them, directly or indirectly, and for whatever reason, in the internal or external affairs of any other of the Parties.

The violation of the provisions of this Article shall give rise to mutual consultation, with the object of exchanging views and seeking methods of peaceful adjustment.

ARTICLE 2. It is agreed that every question concerning the interpretation of the present Additional Protocol, which it has not been possible to settle through diplomatic channels, shall be submitted to the procedure of conciliation provided for in the agreements in force, or to arbitration, or to judicial settlement.

*Excerpts from*CONVENTION ON TREATY COORDINATION  
AND NEUTRALITY

ARTICLE 1. (Summarizes the principal provisions of the five Inter-American peace treaties: the Gondra Pact of 1923, the Kellogg-Briand Pact, the General Convention of Inter-American Conciliation of 1929, the General Treaty of Inter-American Arbitration of 1929, and the Argentine Anti-War Pact; and then states:)

The High Contracting Parties reaffirm the obligations entered into to settle, by pacific means, controversies of an international character that may arise between them.

ARTICLE 2. The High Contracting Parties, convinced of the necessity for the cooperation and consultation provided for in the Convention for the Maintenance, Preservation and Re-establishment of Peace signed by them on this same day, agree that in all matters which affect peace on the Continent, such consultation and cooperation shall have as their object to assist, through the tender of friendly good offices and of mediation, the fulfillment by the American Republics of existing obligations for pacific settlement, and to take counsel together, with full recognition of their juridical equality, as sovereign and independent states, and of their general right to individual liberty of action, when an emergency arises which affects their common interest in the maintenance of peace.

ARTICLE 3. In case of threat of war, the High Contracting Parties shall apply the provisions contained in Articles 1 and 2 of the Convention for the Maintenance, Preservation and Re-establishment of Peace, above referred to, it being understood that, while such consultation is in progress and for a period of not more than six months, the parties in dispute will not have recourse to hostilities or take any military action whatever.

ARTICLE 4. The High Contracting Parties further agree that, in the event of a dispute between two or more of them, they will seek to settle it in a spirit of mutual regard for their respective rights, having recourse for this purpose to direct diplomatic negotiation or to the alternative procedures of mediation, commissions of inquiry, commissions of conciliation, tribunals of arbitration, and courts of justice, as provided in the treaties to which they may be parties; and they also agree that, should it be impossible to settle the dispute by diplomatic negotiation and should the States in dispute have recourse to the other procedures provided in the present Article, they will report this fact and the progress of the negotiations to the other signatory States. These provisions do not affect controversies already submitted to a diplomatic or juridical procedure by virtue of special agreements.

ARTICLE 5. The High Contracting Parties agree that, in the event that the methods provided by the present Convention or by agreements previously concluded should fail to bring about a pacific settlement of differences that may arise between any two or more of them, and hostilities should break out between two or more of them, they shall be governed by the following stipulations:

(a) They shall, in accordance with the terms of the Treaty of Non-Aggression and Conciliation (Saavedra Lamas Treaty), adopt in their character as neutrals a common and solidary attitude; and shall consult immediately with one another, and take cognizance of the outbreak of hostilities in order to determine, either jointly or individually, whether such hostilities shall be regarded as constituting a state of war so as to call into effect the provisions of the present Convention.

(b) It is understood that, in regard to the question whether hostilities actually in progress constitute a state of war, each of the High Contracting Parties shall reach a prompt decision. In any event, should hostilities be actually in progress between two or more of the Contracting Parties, or between two or more signatory States not at the time parties to this Convention by reason of failure to ratify it, each Contracting Party shall take notice of the situation and shall adopt such an attitude as would be consistent with other multilateral treaties to which it is a party or in accordance with its municipal legislation. Such action shall not be deemed an unfriendly act on the part of any state affected thereby.

ARTICLE 6. Without prejudice to the universal principles of neutrality provided for in the case of an international war outside of America and without affecting the duties contracted by those American States members of the League of Nations, the High Contracting Parties reaffirm their loyalty to the principles enunciated in the five agreements referred to in Article 1, and they agree that in the case of an outbreak of hostilities or threat of an outbreak of hostilities between two or more of them, they shall, through consultation, immediately endeavor to adopt in their character as neutrals a common and solidary attitude, in order to discourage or prevent the spread or prolongation of hostilities.

With this object, and having in mind the diversity of cases and circumstances, they may consider the imposition of prohibitions or restrictions on the sale or shipment of arms, munitions, and implements of war, loans or other financial help to the states in conflict, in accordance with the municipal legislation of the High Contracting Parties, and without detriment to their obligations derived from other treaties to which they are or may become parties.

ARTICLE 7. Nothing contained in the present Convention shall be understood as affecting the rights and duties of the High Contracting Parties which are at the same time members of the League of Nations.